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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,792	03/23/2001	George Harry Hoffman	41556/04014 (RS11P026)	5604
22428	7590	12/09/2004	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ZEENDER, FLORIAN M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,792

Applicant(s)

HOFFMAN, GEORGE HARRY

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/4/2004, 6/25/2004, 8/10/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1, 4-7, 10-13, 16-21, and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lidow '761 in view of Garg '407.

Lidow disclose or inherently teach the limitations of the claims including: receiving data (see for example paragraph 0018) from a plurality of stores of a supply chain utilizing a network, the data "relating" to the amount of goods sold by the stores; collecting and processing information relating to a variable (i.e., demand); generating a forecast of sales for a plurality of stores based on the processing (see for example paragraph 0051, "aggregate demand"); providing access to a supplier to the forecast of sales (see for example paragraph 0051, "suppliers 76").

Lidow lacks the specific teaching of the collecting a plurality of variables including at least historical performance of promotion products and current competitor activity.

Garg teaches that it is well known in the art of forecasting to collect information relating to a plurality of variables including historical performance of promotion products (see for example Col. 1, lines 25-28), the impact of pricing and promotions, and current competitor activity (see for example Col. 2, lines 61-63, Col. 3, lines 1-10, and Col. 3, lines 21-26).

It would have been an obvious to one of ordinary skill in the art at the time of the invention to: collect a plurality of variables including at least historical performance of promotion products, the impact of promotions, and current competitor activity; in view of Garg; in order evaluate competitive effects of promotions on market shares (see Garg

Col. 1, lines 25-26, and Col. 3, lines 2-10) and to define operations and strategies of the competition to determine accurate forecasts (see Garg Col. 3, lines 21-23).

Re claim 5: It is well known that "promotions" (disclosed generally in Garg, for example Col. 3, lines 1-7) include the promotion of stores (such as an advertisement for Wal-Mart).

Re claims 19-21: Lidow teaches in paragraph 0054 (last 5 lines) that there are "economic advantages" for the supplier to disassemble a large order of many parts rather than to manage one order for one part. Because the stores are allowing the economic advantages to happen by providing demand information to the supplier, it would be an obvious design choice at the time of the invention to charge a fee to the supplier, in order for the stores to at least partially benefit from the "economic advantage" that they have created by providing the store information.

Re claims 25-27: Lidow teaches that it is well known in the art of marketing and forecasting to collect information (See for example Lidow, Col. 3, lines 4-10) regarding "cannibalization" of products that are not part of a promotion but are offered for sale at the same time as the promotion.

Claims 2-3, 8-9, 14-15, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lidow '761 in view of Garg, as applied to claim 1 above, and further in view of Ando '125 and Macartney-Filgate et al. '126.

Lidow in view of Garg lack the specific teaching of the variables including weather and a marketing calendar.

Ando teaches that it is well known in forecasting to consider weather (See Ando, for example Col. 6, lines 13-20).

Macartney-Filgate et al. teach that is well known in the art of marketing to collect information relating to a marketing calendar (See for example paragraph 0029).

It would have been obvious to one of ordinary skill in the art to modify Lidow in view of Garg to include the collection of information relating to weather and a marketing calendar, in view of Ando and Macartney-Filgate, in order to provide forecasting precision (See Ando, Col. 6, lines 14-15), and to provide marketing for a designated period (i.e., until "specified events" occur; See Macartney-Filgate, paragraph 0029).

Response to Arguments

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113.

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The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for before-final communications.

F. Zeender
Primary Examiner, A.U. 3627
December 7, 2004


F. RYAN ZEENDER
PRIMARY EXAMINER 12/7/04